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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Docket No. 04-0030
)
)
CYNTHIA PALM, an individual;)
MICHAEL EVERS, an individual; and)
M & C EXOTICS, a Minnesota general)
partnership,)
)
Respondents.) Consent Decision and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the allegations in the complaint as set forth herein as findings of fact and conclusions of law, waive oral hearing and further procedure, and consent and agree to the entry of this decision for the purpose of settling this proceeding. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondents Cynthia Palm and Michael Evers are individuals whose address is Route 1, Box 48, Butterfield, Minnesota 56120. At all times mentioned in the complaint, said respondents were partners in respondent M & C Exotics, was a dealer, as that term is defined in the Act and the Regulations, and held AWA license number 41-B-0183.

2. Respondent M & C Exotics is a Minnesota general partnership whose address is

Route 1, Box 48, Butterfield, Minnesota 56120, and the partners of said respondent are respondents Cynthia Palm and Michael Evers. At all times mentioned herein, said respondent was a dealer, as that term is defined in the Act and the Regulations, and held AWA license number 41-B-0183.

3. Respondents have a large business, with over 100 dogs and wild and exotic animals, including lions, tigers and bears. The gravity of the violations alleged in this amended complaint is great. They include repeated instances in which respondents failed to provide minimally-adequate veterinary care, food, water or housing to animals and to provide adequate veterinary care to animals. Respondents have continually failed to comply with the Regulations, after having been repeatedly advised of deficiencies. Respondents have not shown good faith, having demonstrated an unwillingness to comply with the Regulations, and have failed to provide APHIS inspectors access to their premises during normal business hours. On June 10, 2002, APHIS issued a Letter of Warning to respondents.

4a. Between 1998 and December 12, 2002, respondents failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of veterinary care, and specifically, respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody.

4b. Between 1998 and December 12, 2002, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide regular veterinary care to animals.

5. On November 7, 2002, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian trim the overgrown nails of eighteen small dogs, eliminate the excessively-matted hair of two

Shetland sheepdogs, and provide veterinary care to an emaciated adult tiger, an emaciated adult lion, and four emaciated juvenile lions.

6. On November 7, 2002, respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

7. On November 7, 2002, respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries.

8. On November 25, 2002, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to an adult lioness with an injured paw, a second adult lioness with an injured paw, four emaciated juvenile lions, an adult tiger with an apparent case of roundworms, an adult lion, and a juvenile lion that was observed to have involuntary head and neck movement.

9. On November 25, 2002, respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations.

10. On November 25, 2002, respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries.

11. In late November 2002, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to an adult lioness with an injured paw, emaciated lions, large felids with

worms, and a Siberian tiger with a broken leg.

12. On July 1, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian eliminate the excessively-matted hair of four Shih-tzu dogs.

13. On July 1, 2003, respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations and the use of appropriate methods to prevent, control, diagnose and treat injuries.

14. On July 11, 2003, respondents failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of veterinary care, and specifically, respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody.

15. On July 11, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to 112 animals, including two adult lions and two adult tigers that were severely malnourished, and to eliminate the excessively-matted hair of four Shih-tzu dogs.

16. On July 11, 2003, respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations, and the use of appropriate methods to prevent, control, diagnose and treat injuries.

17. On July 15, 2003, respondents failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of

veterinary care, and specifically, respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody.

18. On July 15, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to five emaciated lions, and four emaciated tigers.

19. On July 15, 2003, respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations, and the use of appropriate methods to prevent, control, diagnose and treat injuries.

20. On July 28, 2003, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to seven emaciated lions, and four emaciated tigers.

21. On September 9, 2004, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals, and specifically, failed to have their attending veterinarian provide veterinary care to a female Shetland sheepdog with an open wound on her rear right foot, a male Shetland sheepdog (bearing tag #41) that had multiple open wounds on his legs, and a small male bear in the northwest pen, which bear was abnormally lethargic and thin.

22. On September 9, 2004, respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries, and specifically lacked methods to diagnose and treat injuries sustained by a female Shetland sheepdog, injuries sustained by a male Shetland sheepdog, and a small male bear.

23. On or about the following dates, respondents failed to identify animals as required:

a. November 7, 2002. Respondents failed to identify fifty-one adult dogs either by tag or tattoo.

b. November 25, 2002. Respondents failed to identify fifty-seven adult dogs either by tag or tattoo.

c. January 27, 2003. Respondents failed to identify eight dogs either by tag or tattoo.

d. July 1, 2003. Respondents failed to identify eight dogs either by tag or tattoo, and failed to identify six puppies under sixteen weeks of age.

e. July 11, 2003. Respondents failed to identify eight dogs either by tag or tattoo, and failed to identify two dogs either by tag or tattoo.

f. September 9, 2004. Respondents failed to identify seven dogs either by tag or tattoo.

24. On or about the following dates, respondents failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondents' possession or under respondents' control, or disposed of by respondents, and specifically:

a. November 7, 2002. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to fifty-one dogs, and failed to make, keep, and maintain records regarding elk and white-tailed deer.

b. November 25, 2002. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to fifty-seven dogs.

c. January 27, 2003. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to eight dogs.

d. July 1, 2003. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to eight dogs, and failed to maintain records that included the official USDA tag number or tattoo assigned to six dogs.

25. On the following dates, respondents failed to allow APHIS officials, during business hours, to enter their place of business, to examine records, to make copies, to inspect and photograph animals and to document conditions and areas of noncompliance:

- a. October 10, 2002 (12:15-1:00 p.m.);
- b. November 21, 2002 (10:45-12:30 p.m.);
- c. November 21, 2002 (2:30-5:10 p.m.); and
- d. July 1, 2003. Respondents failed to allow APHIS officials, during business hours to examine records, specifically, a written program of veterinary care, and plan for environmental enrichment for nonhuman primates.

26. On the following dates, respondents handled animals as follows:

- a. November 7, 2002. Respondents failed to handle 142 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.
- b. November 24, 2002. Respondents failed to handle 138 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.
- c. January 27, 2003. Respondents failed to handle 126 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

d. July 1, 2003. Respondents failed to handle 118 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

e. July 11, 2003. Respondents failed to handle 112 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

f. July 15, 2003. Respondents failed to handle 51 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

g. July 28, 2003. Respondents failed to handle 53 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

h. October 1, 2003. Respondents failed to handle 97 animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort.

27. On the following dates, respondents failed to meet the minimum facilities and operating standards for dogs and cats, as follows:

a. November 7, 2002. Respondents failed to keep housing facilities for dogs in good repair to protect animals from injury, and specifically, housing facilities for eight dogs in the small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails, and housing facilities for five dogs in the small-dog-breed building had exposed insulation.

- b. November 7, 2002. Respondents failed to keep interior surfaces of housing facilities for dogs free of sharp points that might injure animals, and specifically, housing facilities for eight dogs in the small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails.
- c. November 7, 2002. Respondents failed to maintain primary enclosures for dogs so that they protect dogs from injury, and specifically, housing facilities for eight dogs in the small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails.
- d. November 7, 2002. Respondents failed to remove excreta from primary enclosures daily and specifically, there was an excessive accumulation of feces (more than one day's worth) in outdoor runs for fourteen dogs in the small-dog-breed building; there was more than one inch of packed-down fecal material in the pen housing three Shetland Sheepdogs; and there was an excessive accumulation of fecal matter in outdoor runs for nineteen Shetland Sheepdogs.
- e. November 7, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.
- f. November 25, 2002. Respondents failed to keep housing facilities for dogs in good repair to protect animals from injury, and specifically housing facilities for dogs in two pens in the small-dog-breed building had exposed insulation.
- g. July 1, 2003. Respondents failed to keep housing facilities for dogs in good repair to protect animals from injury, and specifically, housing facilities for eight dogs in the

small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails; housing facilities for one bulldog had a large hole in the back wall; and two housing facilities for Shetland Sheepdogs had a large hole in the back wall.

h. July 1, 2003. Respondents failed to remove excreta from primary enclosures daily, and specifically, there was an excessive accumulation of fecal matter in runs for 54 dogs.

i. July 1, 2003. Respondents failed to provide for the regular collection, removal and disposal of waste, bedding and debris, and specifically, respondents failed to remove hair and bedding from enclosures for 54 dogs.

j. July 1, 2003. Respondents failed to keep premises where housing facilities are located clean, and specifically, there was an excessive accumulation of waste, including old bedding and hair, under runs for 54 dogs.

j. July 1, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

k. July 11, 2003. Respondents failed to keep housing facilities for dogs in good repair to protect animals from injury, and specifically, housing facilities for seven dogs had a large holes in the back wall.

l. July 11, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

m. October 1, 2003. Respondents failed to ensure that shelters in outdoor

facilities have a wind break and a rain break at the entrance, and specifically, dog pens housing twenty dogs in trailer dog building lacked wind breaks and rain breaks.

n. September 9, 2004. Respondents failed to keep housing facilities for dogs in good repair to protect animals from injury and contain them, and specifically, respondent failed to repair five dog doors between two of respondents' kennel buildings, used by nineteen dogs, which doors do not close.

o. September 9, 2004. Respondents failed to maintain primary enclosures for dogs so that they have no sharp points that could injure animals, and specifically, housing facilities for sixteen dogs in the small-dog-breed building had a sharp metal siding protruding into the doorway, had sharp points around the pens, and had detached wire.

p. September 9, 2004. Respondents failed to construct their primary enclosures for 61 dogs so that all surfaces in contact with the dogs can be readily cleaned and sanitized, and specifically, the enclosures are constructed of painted wood and painted concrete, and the paint has peeled away in several areas.

q. September 9, 2004. Respondents failed to ensure that dogs housed in the same primary enclosure were compatible, and specifically, respondents housed three incompatible dogs in the same primary enclosure (a female Shetland sheepdog, and two male Shetland sheepdogs), and the female and one of the male dogs have suffered injuries.

r. September 9, 2004. Respondents failed to remove excreta from primary enclosures daily, and specifically, there was an excessive accumulation of fecal matter in kennels housing 45 dogs.

s. September 9, 2004. Respondents failed to provide for the regular collection,

removal and disposal of waste, bedding and debris, and specifically, respondents failed to remove hair and bedding from enclosures for 45 dogs.

t. September 9, 2004. Respondents failed to keep premises where housing facilities are located clean, and specifically, there was an excessive accumulation of waste, including old bedding and hair, under runs for 45 dogs.

u. September 9, 2004. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

28. Respondents failed to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.175-3.92), as follows:

a. November 25, 2002. Respondents failed to construct primary enclosures so that they provide sufficient space for nonhuman primates to make normal postural adjustments with adequate freedom of movement for two bush babies, who were housed in a cage that was too small for them.

b. November 25, 2002, January 27, 2003, and July 11, 2003. Respondents failed to develop, document and follow an appropriate plan for the environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and specifically, respondents had no plan for the environmental enrichment for two bush babies.

c. November 25, 2002, July 1 and July 11, 2003. Respondents failed to remove excreta from enclosures daily, and specifically, the enclosure housing a macaque had an excessive accumulation of excreta.

29. Respondents failed to meet the general facilities standards for animals other than

dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. § 3.125), as follows:

a. November 7, 2002. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, housed two tigers in facilities that had loose, hanging wire mesh with sharp metal points, and chain link in the ceilings of the shelter boxes for sixteen bears had separated from the wood, leaving sharp edges.

b. November 7, 2002. Respondents failed to store supplies of food in facilities that adequately protect them from deterioration, molding and contamination, and specifically, respondents stored food for forty-two bears in an open trailer bed, exposed to contamination by vermin and other animals.

c. November 7, 2002. Respondents failed to provide for the removal and disposal of animal and food waste, and specifically, there was an excessive accumulation of bones and other waste in enclosures housing three tigers, eight lions, and forty-two bears. .

d. November 25, 2002. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, there was broken metal wire with sharp edges in enclosures for seven bears, and a loose board with several nails protruding from it in enclosures for six white-tailed deer.

e. November 25, 2002. Respondents failed to provide for the removal and disposal of animal and food waste, and specifically there was an excessive accumulation of bones and other waste in enclosures housing eight lions, forty-two bears, and three tigers.

f. November 25, 2002. Respondents failed to maintain housing facilities

structurally sound and in good repair to protect the animals housed therein from injury, and specifically, chain link in the ceilings of the shelter boxes for sixteen bears had separated from the wood, leaving sharp edges.

g. January 27, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, chain link in the ceilings of the shelter boxes for sixteen bears had separated from the wood, leaving sharp edges.

h. July 1, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges; metal fencing with sharp edges that was previously buried under pens for seventeen bears had become exposed; pieces of metal fencing on the bottom of two pens housing three lions is protruding into the pens; and pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens.

i. July 1, 2003. Respondents failed to provide for the removal and disposal of animal and food waste, and specifically there was an excessive accumulation of bone, feathers, hair and other waste in enclosures housing four tigers; there was an excessive accumulation of bone, feathers, hair and other waste in enclosures housing four lions; there was an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty-two bears; and there was an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty-two bears.

j. July 1, 2003. Respondents failed to provide a suitable method for the rapid elimination of excess water, and specifically, there was more than one foot of mud in the enclosures for bears, which mud had mixed with accumulated feces, hair, urine and food waste, and the bears' coats were covered with this contaminated mud mixture.

k. July 11, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges; and pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens.

l. July 11, 2003. Respondents failed to store supplies of food in facilities that adequately protect them from deterioration, molding and contamination, and specifically respondents lacked any facilities for storing food for large felids, and consequently, there was no food on hand for these animals, all of whom were undernourished.

m. July 15, 2003. Respondents failed to store supplies of food in facilities that adequately protect them from deterioration, molding and contamination, and specifically, respondents stored meat in their freezer without wrapping it, thereby exposing the meat to freezer burn.

n. July 15, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens; and chain

link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges.

o. July 15, 2003. Respondents failed to provide appropriate natural or artificial shelter for animals kept outdoors, and specifically, housed seven male bears without any shelter from inclement weather.

p. July 15, 2003. Respondents failed to provide for the removal and disposal of animal and food waste, and specifically, there was an excessive accumulation of bone, feathers, hair and other waste in enclosures housing five lions and four tigers; and an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty-two bears.

q. July 28, 2003. Respondents failed to provide for the removal and disposal of animal and food waste, and specifically, there was an excessive accumulation of bone, feathers, hair and other waste in enclosures housing five lions, and four tigers; and an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty-two bears.

r. July 28, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges; pieces of wire fencing on the bottom of pens housing forty-two bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens; there were two feed holes with sharp points in pens housing seven bears; and there was a feed hole in pens housing sixteen bears, which holes were large enough for

a bear to put its head through.

s. July 28, 2003. Respondents failed to store supplies of food in facilities that adequately protect them from deterioration, molding and contamination, and specifically, respondents stored meat in their freezer without wrapping it, thereby exposing the meat to freezer burn.

t. October 1, 2003. Respondents failed to maintain housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges; metal fencing with sharp edges that was previously buried under pens for seventeen bears had become exposed; and metal flooring in three shelter boxes is detached and peeled back into the boxes for seventeen bears.

u. October 1, 2003. Respondents failed to store supplies of food in facilities that adequately protect them from deterioration, molding and contamination, and specifically, respondents stored meat in their freezer without wrapping it, thereby exposing the meat to freezer burn.

v. September 9, 2004. Respondents failed to maintain outdoor housing facilities structurally sound and in good repair to protect the animals housed therein from injury, and specifically, portions of the enclosure housing 12 bears is loose, and could allow bears to escape, and could allow other animals to enter the pens.

30. Respondents failed to meet the indoor facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. § 3.126), as follows:

a. November 25, 2002. Respondents failed to have ample lighting in indoor housing facilities, and specifically, there was inadequate lighting in enclosures housing four lions. 9 C.F.R. § 3.126(c).

31. Respondents failed to meet the outdoor facilities and space standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, as follows:

a. November 7, 2002. Respondents failed to enclose their facilities for forty-two bears, three tigers and four lions by a perimeter fence.

b. November 25, 2002. Respondents failed to enclose their facilities for forty-two bears, two tigers and four lions by a perimeter fence, and failed to construct enclosures so as to provide sufficient space to allow each animal to make normal social and postural adjustments, and specifically, failed to provide sufficient den space to breeding bears.

c. July 1, 2003. Respondents failed to enclose their facilities for forty bears, four tigers, and seven lions by a perimeter fence.

d. July 11, 2003. Respondents failed to enclose their facilities for forty-two bears, four tigers and five lions by a perimeter fence, and to construct enclosures so as to provide sufficient space to allow each animal to make normal social and postural adjustments, and specifically, failed to provide sufficient space to two sugar gliders.

e. July 15, 2003. Respondents failed to enclose their facilities for forty-two bears, four tigers, and five lions by a perimeter fence.

f. September 9, 2004. Respondents failed to provide 9 adult male bears with natural or artificial shelter from inclement weather.

32. Respondents failed to meet the minimum feeding and watering standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.129-3.130), as follows:

a. November 7, 2002. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed four emaciated juvenile lions, one emaciated adult lion, and one emaciated adult tiger.

b. November 7, 2002. Respondents failed to keep water receptacles for forty two bears, three tigers, eight lions and fourteen elk clean and sanitary, and specifically, there was mud, leaves, food and animal waste, and other debris in the receptacles.

c. November 25, 2002. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, water intended for bears, fourteen elk and eight lions was frozen and therefore unavailable.

d. November 25, 2002. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, the water receptacle for young bears was crushed and unable to provide the animals access to water.

e. November 25, 2002. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed one emaciated adult lion, one emaciated adult tiger, and four emaciated juvenile lions, and fed breeding female bears an inadequate diet of ground corn.

f. Late November 2002. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to provide sufficient food to emaciated lions.

g. July 1, 2003. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed four emaciated tigers and five emaciated lions.

h. July 1, 2003. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, water receptacles for two juvenile tigers were filled with straw and other debris instead of water, water in large water tanks in the bear pens was contaminated with food, feces, mud and hair, and water in receptacles in west felid pens was contaminated with scum and algae.

i. July 11, 2003. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed four emaciated tigers and five emaciated lions.

j. July 11, 2003. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, water receptacles for two juvenile tigers were filled with straw and other debris instead of water, water in receptacles in west felid pens was contaminated with scum and algac, and water in large water tanks in the bear pens was contaminated with food, feces, mud and hair.

k. July 12, 2003. Respondents failed to provide animals with wholesome,

palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed four emaciated tigers, and five emaciated lions.

l. July 15, 2003. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed four emaciated tigers and five emaciated lions.

m. July 15, 2003. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, water in large water tanks in the bear pens was contaminated with food, feces, mud and hair.

n. July 28, 2003. Respondents failed to make potable water accessible to animals at all times or as often as necessary for their health and well-being, and specifically, water in large water tanks and small receptacles in the bear pens was contaminated with food, feces, mud and hair

o. July 28, 2003. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, fed three lions rotting carcasses contaminated with maggots and flies, failed to adequately feed five emaciated lions and four emaciated tigers.

p. September 9, 2004. Respondents failed to provide animals with wholesome, palatable food of sufficient quantity and nutritive value to maintain all animals in good health, and specifically, failed to adequately feed seven lions and six tigers.

33. Respondents failed to meet the minimum sanitation, employee and separation

standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.131-3.133), as follows:

a. November 7, 2002. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing three tigers, eight lions, and forty-two bears.

b. November 7, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

c. November 25, 2002. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing three tigers, eight lions, and forty-two bears.

d. November 25, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

e. July 1, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

f. July 1, 2003. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing four tigers, eight lions, and

forty-two bears.

g. July 1, 2003. Respondents failed to keep premises clean, and specifically, there were tall weeds near the animal areas.

h. July 11, 2003 Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

i. July 11, 2003. Respondents housed animals near animals that interfere with their health and well-being, and specifically, housed two bear cubs adjacent to adult bears, causing the bears agitation.

j. July 11, 2003 Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing forty bears.

k. July 15, 2003. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing forty bears, five lions and four tigers.

l. July 28, 2003. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing seven lions and four tigers.

m. July 28, 2003 Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

n. July 28, 2003. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals therein, and specifically, there was an excessive accumulation of excreta in enclosures housing 34 bears, two lions and four tigers.

Conclusions of Law

1. The respondents have admitted the jurisdictional facts, the parties have agreed to the entry of this decision, and therefore such decision will be entered.

2. On or about the following dates, respondents willfully violated the veterinary care Regulations, 9 C.F.R. § 2.40, as follows:

a. 1998-December 12, 2002. Respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody and failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include regularly-scheduled a written program of veterinary care. 9 C.F.R. § 2.40(a)(1).

b. 1998-December 12, 2002. Respondents failed to have their attending veterinarian provide regular veterinary care to animals. 9 C.F.R. § 2.40(a).

c. November 7, 2002. Respondents failed to have their attending veterinarian trim the overgrown nails of eighteen small dogs, eliminate the excessively matted hair of two Shetland sheepdogs, and provide veterinary care to an emaciated adult tiger, an emaciated adult lion, and four emaciated juvenile lions. 9 C.F.R. § 2.40(a).

d. November 7, 2002. Respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel,

equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

e. November 7, 2002. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries. 9 C.F.R. § 2.40(b)(2).

f. November 25, 2002. Respondents failed to have their attending veterinarian provide veterinary care to an adult lioness with an injured paw, a second adult lioness with an injured paw, four emaciated juvenile lions, an adult tiger with an apparent case of roundworms, an adult lion, and a juvenile lion that was observed to have involuntary head and neck movement. 9 C.F.R. § 2.40(a).

g. November 25, 2002. Respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

h. November 25, 2002. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries. 9 C.F.R. § 2.40(b)(2).

i. Late November 2002. Respondents failed to have their attending veterinarian provide veterinary care to an adult lioness with an injured paw, emaciated lions, large felids with worms, and a Siberian tiger with a broken leg. 9 C.F.R. § 2.40(a).

j. July 1, 2003. Respondents failed to have their attending veterinarian eliminate the excessively-matted hair of four Shih-tzu dogs. 9 C.F.R. § 2.40(a).

k. July 1, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel,

equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

1. July 1, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries. 9 C.F.R. § 2.40(b)(2).

m.. July 11, 2003 . Respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody. 9 C.F.R. § 2.40(a)(1).

n. July 11, 2003. Respondents failed to have their attending veterinarian provide veterinary care to 112 animals, including two adult lions and two adult tigers that were severely malnourished, and eliminate the excessively-matted hair of four Shih-tzu dogs. 9 C.F.R. § 2.40(a).

o. July 11, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

p. July 11, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries. 9 C.F.R. § 2.40(b)(2).

q. July 15, 2003 . Respondents failed to establish and maintain a current, accurate program of veterinary care that reflected the animals in respondents' custody. 9 C.F.R. § 2.40(a)(1).

r. July 15, 2003. Respondents failed to have their attending veterinarian provide veterinary care to five emaciated lions, and four emaciated tigers. 9 C.F.R. § 2.40(a).

s. July 15, 2003 Respondents failed to establish and maintain a program of adequate veterinary care that includes the availability of appropriate facilities, personnel, equipment and services to comply with the Regulations. 9 C.F.R. § 2.40(b)(1).

t. July 15, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries. 9 C.F.R. § 2.40(b)(2).

u. July 28, 2003. Respondents failed to have their attending veterinarian provide veterinary care to seven emaciated lions and four emaciated tigers. 9 C.F.R. § 2.40(a).

v. September 9, 2004. Respondents failed to have their attending veterinarian provide veterinary care to a female Shetland sheepdog with an open wound on her rear right foot, a male Shetland sheepdog (bearing tag #41) that had multiple open wounds on his legs, and a small male bear in the northwest pen, which bear was abnormally lethargic and thin. 9 C.F.R. § 2.40(a).

w. September 9, 2004. Respondents failed to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose and treat injuries, and specifically, lacked methods to diagnose and treat injuries sustained by a female Shetland sheepdog, a male Shetland sheepdog, and diagnose and treat a small male bear. 9 C.F.R. § 2.40(b)(2).

3. On or about the following dates, respondents willfully violated the record-keeping Regulations (9 C.F.R. § 2.50), as follows:

a. November 7, 2002. Respondents failed to identify fifty-one adult dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

b. November 25, 2002. Respondents failed to identify fifty-seven adult dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

c. January 27, 2003. Respondents failed to identify eight dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

d. July 1, 2003. Respondents failed to identify eight dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

e. July 1, 2003. Respondents failed to identify six puppies under sixteen weeks of age, as required. 9 C.F.R. § 2.50(b)(3).

f. July 11, 2003. Respondents failed to identify eight dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

g. July 11, 2003. Respondents failed to identify two dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

h. September 9, 2004. Respondents failed to identify seven dogs either by tag or tattoo, as required. 9 C.F.R. § 2.50(b)(1).

4. On or about the following dates, respondents willfully violated the record-keeping Regulations (9 C.F.R. § 2.75), as follows:

a. November 7, 2002. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to fifty-one dogs. 9 C.F.R. § 2.75(a)(1)(vi).

b. November 7, 2002. Respondents failed to make, keep, and maintain records regarding elk and white-tailed deer. 9 C.F.R. § 2.75(b)(1).

c. November 25, 2002. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to fifty-seven dogs. 9 C.F.R. § 2.75(a)(1)(vi).

d. January 27, 2003. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to eight dogs. 9 C.F.R. § 2.75(a)(1)(vi).

e. July 1, 2003. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to eight dogs. 9 C.F.R. § 2.75(a)(1)(vi).

f. July 1, 2003. Respondents failed to maintain records that included the official USDA tag number or tattoo assigned to six dogs. 9 C.F.R. § 2.75(a)(1)(vi).

5. On the following dates, respondents failed to allow APHIS officials, during business hours, to enter their place of business, to examine records, to make copies, to inspect and photograph animals and to document conditions and areas of noncompliance, in willful violation of the inspection Regulations (9 C.F.R. § 2.126(a)), as follows:

a. October 10, 2002. (12:15-1:00 p.m.)

b. November 21, 2002. (10:45-12:30 p.m.)

c. November 21, 2002. (2:30-5:10 p.m.)

d. July 1, 2003. Respondents failed to allow APHIS officials, during business hours to examine records, specifically, a written program of veterinary care, and plan for environmental enrichment for nonhuman primates. 9 C.F.R. § 2.126(a).

6. On the following dates, respondents handled animals as carefully as possible in a manner that did not cause behavioral stress, physical harm or unnecessary discomfort, in willful violation of section 2.131(b)(1) of the handling Regulations, 9 C.F.R. § 2.131 (b)(1) [formerly 9 C.F.R. § 2.131(a)(1)], as follows:

a. November 7, 2002. 142 animals.

b. November 24, 2002. 138 animals.

- c. January 27, 2003. 126 animals.
- d. July 1, 2003. 118 animals.
- e. July 11, 2003. 112 animals.
- f. July 15, 2003. 51 animals.
- g. July 28, 2003. 53 animals.
- h. October 1, 2003. 97 animals.

7. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for dogs and cats (9 C.F.R. §§ 3.1-3.19), as follows:

a. November 7, 2002. Respondents' housing facilities for eight dogs in the small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails, and respondents' housing facilities for five dogs in the small-dog-breed building had exposed insulation. 9 C.F.R. § 3.1(a).

b. November 7, 2002. Respondents' housing facilities for eight dogs in the small-dog breed building had a large hole in the back wall, exposing a wooden board with protruding nails. 9 C.F.R. § 3.1(c)(1), 9 C.F.R. § 3.6(a)(2)(i), 9 C.F.R. § 3.6(a)(2)(ii).

c. November 7, 2002. There was an excessive accumulation of feces (more than one day's worth) in outdoor runs for fourteen dogs in the small-dog-breed building, more than one inch of packed-down fecal material in the pen housing three Shetland Sheepdogs, and an excessive accumulation of fecal matter in outdoor runs for nineteen Shetland Sheepdogs. 9 C.F.R. § 3.11(a).

d. November 7, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required

by the Regulations and Standards. 9 C.F.R. § 3.12.

e. November 25, 2002. Respondents' housing facilities for dogs in two pens in the small-dog-breed building had exposed insulation. 9 C.F.R. § 3.1(a).

f. July 1, 2003. Respondents' housing facilities for eight dogs in the small-dog-breed building had a large hole in the back wall, exposing a wooden board with protruding nails, respondents' housing facilities for one bulldog had a large hole in the back wall, and respondents' two housing facilities for Shetland Sheepdogs had a large hole in the back wall. 9 C.F.R. § 3.1(a).

g. July 1, 2003. There was an excessive accumulation of fecal matter in runs for 54 dogs. 9 C.F.R. § 3.11(a).

h. July 1, 2003. Respondents failed to remove hair and bedding from enclosures for 54 dogs. 9 C.F.R. § 3.1(f).

i. July 1, 2003. There was an excessive accumulation of waste, including old bedding and hair, under runs for 54 dogs. 9 C.F.R. § 3.11(c).

j. July 1, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.12.

k. July 11, 2003. Respondents' housing facilities for seven dogs had a large holes in the back wall. 9 C.F.R. § 3.1(a).

l. July 11, 2003. Respondents failed to have a sufficient number of adequately trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.12.

- m. October 1, 2003. Respondents' dog pens housing twenty dogs in trailer dog building lacked wind breaks and rain breaks. 9 C.F.R. § 3.4(b)(3).
- n. September 9, 2004. Respondents failed to repair five dog doors between two of respondents' kennel buildings, used by nineteen dogs, which doors do not close. 9 C.F.R. § 3.1(a).
- o. September 9, 2004. Respondents' housing facilities for sixteen dogs in the small-dog-breed building had a sharp metal siding protruding into the doorway, had sharp points around the pens, and had detached wire. 9 C.F.R. § 3.6(a)(2)(i).
- p. September 9, 2004. Respondents' primary enclosures for 61 dogs are constructed of painted wood and painted concrete, and the paint has peeled away in several areas. 9 C.F.R. § 3.6(a)(2)(ix).
- q. September 9, 2004. Respondents housed three incompatible dogs in the same primary enclosure (a female Shetland sheepdog, and two male Shetland sheepdogs), and the female and one of the male dogs have suffered injuries. 9 C.F.R. § 3.7.
- r. September 9, 2004. There was an excessive accumulation of fecal matter in kennels housing 45 dogs. 9 C.F.R. § 3.11(a).
- s. September 9, 2004. Respondents failed to remove hair and bedding from enclosures for 45 dogs. 9 C.F.R. § 3.1(f).
- t. September 9, 2004. There was an excessive accumulation of waste, including old bedding and hair, under runs for 45 dogs. 9 C.F.R. § 3.11(c).
- u. September 9, 2004. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required

by the Regulations and Standards. 9 C.F.R. § 3.12.

8. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.175-3.92), as follows:

a. November 7, 2002. Respondents' enclosure housing two bush babies had an excessive accumulation of excreta over all solid surfaces. 9 C.F.R. § 3.84(a).

b. November 25, 2002. Respondents had no plan for the environmental enrichment for two bush babies. 9 C.F.R. § 3.81.

c. November 25, 2002. Respondents failed to construct primary enclosures so that they provide sufficient space for nonhuman primates to make normal postural adjustments with adequate freedom of movement for two bush babies, who were housed in a cage that was too small for them. 9 C.F.R. § 3.80(a)(2)(xi).

d. January 27, 2003. Respondents had no plan for the environmental enrichment for two bush babies. 9 C.F.R. § 3.81.

e. July 1, 2003. Respondents' enclosure housing a macaque had an excessive accumulation of excreta. 9 C.F.R. § 3.84(a).

f. July 11, 2003. Respondents had no plan for the environmental enrichment for two bush babies. 9 C.F.R. § 3.81.

g. July 11, 2003. Respondents' enclosure housing a macaque had an excessive accumulation of excreta. 9 C.F.R. § 3.84(a).

9. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs,

nonhuman primates and marine mammals (9 C.F.R. § 3.125), as follows:

- a. November 7, 2002. Respondents housed two tigers in facilities that had loose, hanging wire mesh with sharp metal points, and respondents' chain link in the ceilings of the shelter boxes for sixteen bears had separated from the wood, leaving sharp edges. 9 C.F.R. § 3.125(a).
- b. November 7, 2002. Respondents stored feed for forty-two bears in an open trailer bed, exposed to contamination by vermin and other animals. 9 C.F.R. § 3.125(c).
- c. November 7, 2002. There was an excessive accumulation of bones and other waste in enclosures housing three tigers, eight lions, and forty two bears. 9 C.F.R. § 3.125(d).
- d. November 25, 2002. There was broken metal wire with sharp edges in enclosures for seven bears, and a loose board with several nails protruding from it in enclosures for six white-tailed deer. 9 C.F.R. § 3.125(a).
- e. November 25, 2002. There was an excessive accumulation of bones and other waste in enclosures housing eight lions, forty-two bears, and three tigers. 9 C.F.R. § 3.125(d).
- f. November 25, 2002, January 27, 2003, and July 1, 2003. Respondents' chain link in the ceilings of the shelter boxes for sixteen bears had separated from the wood, leaving sharp edges. 9 C.F.R. § 3.125(a).
- g. July 1, 2003. Respondents' metal fencing with sharp edges that was previously buried under pens for seventeen bears had become exposed, respondents' pieces of metal fencing on the bottom of two pens housing three lions is protruding into the pens,

and respondents' pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens. 9 C.F.R. § 3.125(a).

h. July 1, 2003. There was an excessive accumulation of bone, feathers, hair and other waste in enclosures housing four tigers and four lions, an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty two bears, and more than one foot of mud in the enclosures for bears, which mud had mixed with accumulated feces, hair, urine and food waste, and the bears' coats were covered with this contaminated mud mixture. 9 C.F.R. § 3.125(d).

i. July 11, 2003. Respondents' chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges, and respondents' pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens. 9 C.F.R. § 3.125(a).

j. July 11, 2003. Respondents lacked any facilities for storing food for large felids, and consequently, there was no food on hand for these animals, all of whom were undernourished. 9 C.F.R. § 3.125(c).

k. July 15, 2003. Respondents stored meat in their freezer without wrapping it, thereby exposing the meat to freezer burn. 9 C.F.R. § 3.125(c).

l. July 15, 2003. Respondents' pieces of wire fencing on the bottom of pens housing forty bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens, and respondents' chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges. 9 C.F.R. §

3.125(a).

m. July 15, 2003. Respondents housed seven male bears without any shelter from inclement weather. 9 C.F.R. § 3.125(b).

n. July 15 and July 28, 2003. There was an excessive accumulation of bones, hair, wet bedding and other waste in the shelter boxes for forty-two bears, and an excessive accumulation of bone, feathers, hair and other waste in enclosures housing five lions and four tigers. 9 C.F.R. § 3.125(d).

o. July 28, 2003. Respondents' chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges, respondents' pieces of wire fencing on the bottom of pens housing forty-two bears is separated from the supports, is protruding into the pens, and allows other animals to enter the pens, there were two feed holes with sharp points in pens housing seven bears, and there was a feed hole in pens housing sixteen bears, which holes were large enough for a bear to put its head through. 9 C.F.R. § 3.125(a)

p. July 28, 2003. Respondents stored meat in their freezer without wrapping it, thereby exposing the meat to freezer burn. 9 C.F.R. § 3.125(c).

q. October 1, 2003. Respondents' chain link in the ceilings of the shelter boxes for seventeen bears had separated from the wood, leaving sharp edges, respondents' metal fencing with sharp edges that was previously buried under pens for seventeen bears had become exposed, and respondents' metal flooring in three shelter boxes is detached and peeled back into the boxes for seventeen bears. 9 C.F.R. § 3.125(a).

r. October 1, 2003. Respondents stored meat in their freezer without wrapping

it, thereby exposing the meat to freezer burn. 9 C.F.R. § 3.125(c).

s. September 9, 2004. Portions of the enclosure housing 12 bears is loose, and could allow bears to escape, and could allow other animals to enter the pens. 9 C.F.R. § 3.125(a).

10. On November 25, 2002, respondents willfully violated section 2.100(a) of the Regulations by failing to meet the indoor facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. § 3.126), and specifically, there was inadequate lighting in enclosures housing four lions. 9 C.F.R. § 3.126(c).

11. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the outdoor facilities and space standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. § 3.127-3.128), as follows:

a. November 7, 2002 Respondents failed to enclose their facilities for forty-two bears, three tigers and four lions by a perimeter fence. 9 C.F.R. § 3.127(d).

b. November 25, 2002. Respondents failed to enclose their facilities for forty two bears, two tigers and four lions by a perimeter fence. 9 C.F.R. § 3.127(d).

c. November 25, 2002. Respondents failed to construct enclosures so as to provide sufficient space to allow each animal to make normal social and postural adjustments, and specifically, failed to provide sufficient den space to breeding bears. 9 C.F.R. § 3.128.

d. July 1, 2003. Respondents failed to enclose their facilities for forty bears, four tigers and seven lions by a perimeter fence. 9 C.F.R. § 3.127(d).

e. July 11, 2003. Respondents failed to enclose their facilities for forty-two

bears, four tigers and five lions by a perimeter fence. 9 C.F.R. § 3.127(d).

f. July 11, 2003. Respondents failed to construct enclosures so as to provide sufficient space to allow each animal to make normal social and postural adjustments, and specifically, failed to provide sufficient space to two sugar gliders. 9 C.F.R. § 3.128.

g. July 15, 2003. Respondents failed to enclose their facilities for forty-two bears, four tigers, and five lions by a perimeter fence. 9 C.F.R. § 3.127(d).

h. September 9, 2004. Respondents failed to provide 9 adult male bears with natural or artificial shelter from inclement weather. 9 C.F.R. § 3.127(b).

12. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the minimum feeding and watering standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.129-3.130), as follows:

a. November 7, 2002. Respondents failed to adequately feed four emaciated juvenile lions, and two emaciated adult lions. 9 C.F.R. § 3.129(a).

b. November 7, 2002. There was mud, leaves, food and animal waste, and other debris in the water receptacles. 9 C.F.R. § 3.130.

c. November 25, 2002. Water intended for bears, fourteen elk, and eight lions was frozen and therefore unavailable, and the water receptacle for young bears was crushed and unable to provide the animals access to water. 9 C.F.R. § 3.130.

d. November 25, 2002. Respondents failed to adequately feed one emaciated adult lion, one emaciated adult tiger, and four emaciated juvenile lions, and respondents fed breeding female bears an inadequate diet of ground corn. 9 C.F.R. § 3.129(a).

e. Late November 2002. Respondents failed to provide sufficient food to

emaciated lions. 9 C.F.R. § 3.129(a).

f. July 1, 2003. Respondents failed to adequately feed five emaciated lions, and four emaciated tigers. 9 C.F.R. § 3.129(a).

g. July 1, 2003. Respondents' water receptacles for two juvenile tigers were filled with straw and other debris instead of water, respondents' water in large water tanks in the bear pens was contaminated with food, feces, mud and hair, and respondents' water in receptacles in west felid pens was contaminated with scum and algae. 9 C.F.R. § 3.130.

h. July 11, 2003. Respondents failed to adequately feed four emaciated tigers and five emaciated lions. 9 C.F.R. § 3.129(a).

i. July 11, 2003. Respondents' water receptacles for two juvenile tigers were filled with straw and other debris instead of water, respondents' water in receptacles in west felid pens was contaminated with scum and algae, and respondents' water in large water tanks in the bear pens was contaminated with food, feces, mud and hair. 9 C.F.R. § 3.130.

j. July 12, 2003. Respondents failed to adequately feed four emaciated tigers and five emaciated lions. 9 C.F.R. § 3.129(a).

k. July 15, 2003. Respondents failed to adequately feed four emaciated tigers and five emaciated lions. 9 C.F.R. § 3.129(a).

l. July 15, 2003. Respondents' water in large water tanks in the bear pens was contaminated with food, feces, mud and hair. 9 C.F.R. § 3.130.

m. July 28, 2003. Respondents' water in large water tanks and small receptacles in the bear pens was contaminated with food, feces, mud and hair. 9 C.F.R. § 3.130.

n. July 28, 2003. Respondents fed three lions rotting carcasses contaminated

with maggots and flies, and failed to adequately feed five emaciated lions and four emaciated tigers. 9 C.F.R. § 3.129(a).

o. September 9, 2004. Respondents failed to adequately feed seven lions and six tigers. 9 C.F.R. § 3.129(a).

13. Respondents willfully violated section 2.100(a) of the Regulations by failing to meet the minimum sanitation, employee and separation standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.131-3.133), as follows:

a. November 7, 2002. There was an excessive accumulation of excreta in enclosures housing three tigers, eight lions, and forty-two bears. 9 C.F.R. § 3.131(a).

b. November 7, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.132.

c. November 25, 2002. There was an excessive accumulation of excreta in enclosures housing three tigers, eight lions, and forty-two bears. 9 C.F.R. § 3.131(a).

d. November 25, 2002. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.132.

e. July 1, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.132.

f. July 1, 2003. There was an excessive accumulation of excreta in enclosures

housing four tigers, eight lions, and forty-two bears. 9 C.F.R. § 3.131(a).

g. July 1, 2003. Respondents failed to keep premises clean, and specifically, there were tall weeds near the animal areas. 9 C.F.R. § 3.131(c).

h. July 11, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.132.

i. July 11, 2003. Respondents housed two bear cubs adjacent to adult bears, causing the bears agitation. 9 C.F.R. § 3.133.

j. July 11, 2003. There was an excessive accumulation of excreta in enclosures housing forty bears. 9 C.F.R. § 3.131(a).

k. July 15, 2003. There was an excessive accumulation of excreta in enclosures housing forty bears, five lions and four tigers. 9 C.F.R. § 3.131(a).

l. July 28, 2003. There was an excessive accumulation of excreta in enclosures housing forty bears, seven lions and four tigers. 9 C.F.R. § 3.131(a).

m. July 28, 2003. Respondents failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.132.

n. September 9, 2004. There was an excessive accumulation of excreta in enclosures housing 34 bears, two lions and four tigers. 9 C.F.R. § 3.131(a).

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and



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Standards.

2. Animal Welfare Act license number 41-B-0183 is hereby revoked, effective April 30, 2006. *M.E. CP*


This order shall become effective on the first day after service of this decision on the respondent. Copies of this decision shall be served upon the parties.


Cynthia Palm
Respondent
Michael Evers
Respondent

M & C EXOTICS
a Minnesota general partnership
Respondent


By Cynthia Palm
Partner
Colleen Carroll
Attorney for Complainant

Done at Washington, D.C.
this 17th day of April, 2006


Peter M. Davenport
Administrative Law Judge